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09/821,005	03/29/2001	Michael D. Ellis	UV/189	8533

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EXAMINER

FISH, JAMIESON W

ART UNIT PAPER NUMBER

2616

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,005

Applicant(s)

ELLIS ET AL

Examiner

Jamieson W. Fish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS) submitted on 3/26/2002 and 12/3/01 have been considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims **22** and **23** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim **22** recites the limitation "the time delay" in line 2. There is insufficient antecedent basis for this limitation in the claim. Replacing "the" with "a" would correct the problem. The claim has been evaluated with this correction.

5. Claim **23** recites the limitation "the time extension" in line 2. There is insufficient antecedent basis for this limitation in the claim. Replacing "the" with "a" would correct the problem. The claim has been evaluated with this correction. Also, claim 23 appears as though the applicant intended to make it dependent on claim 21.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims **1-26** and **29-54** are rejected under 35 U.S.C. 102(e) as being anticipated by Inoue et al. (US 6,185,360).

8. Regarding claim **1**, Inoue teaches a method for use in a recording system for reducing cut-offs when programs are recorded, comprising: providing time change information about a scheduled program (See Fig. 11C Step 8 and Col. 8 lines 32-67); and recording the program to compensate for a time change based on the time change information (See Fig. 11C and Step 11 and Col. 8 lines 32-67).

9. Regarding claim **2**, Inoue teaches wherein the time change information comprises time delay information (See Col. 1 lines 8-15).

10. Regarding claim **3**, Inoue teaches wherein the time delay information is actual time delay (See Col. 1 lines 8-30).

11. Regarding claim **4**, Inoue teaches wherein the time delay information is predicted time delay (See Col. 1 lines 14-30 When service information about a time delay for a program is received before the broadcast of a program it is a predicted delay, since broadcast can be further delayed up until the actual broadcast).

12. Regarding claim **5**, Inoue teaches wherein the predicted time delay is based on previously logged time changes (See Fig. 11C Step 8, 11 and Col. 1 lines 14-30 Col. 8 lines 32-59. Service information about a program change stored in memory before the broadcast of the program is a previously logged time change).

13. Regarding claim 6, Inoue teaches wherein providing time change information comprises displaying the time delay information for the program (See Fig. 11C Step 11 and Col. 8 lines 46-59. Changing EPG is displaying time delay information).
14. Regarding claim 7, Inoue teaches wherein the time change information comprises time extension information (See Fig. 6A-B and Col. 8 lines 32-46).
15. Regarding claim 8, Inoue teaches wherein the time extension information is an actual time extension (See Fig. 6A-B and Col. 8 lines 32-46).
16. Regarding claim 9, Inoue teaches wherein the time extension information is a predicted time extension (See Fig. 6A-B and Col. 8 lines 32-46 Time extension information received is a predicted time extension since baseball game can be further extended).
17. Regarding claim 10, Inoue teaches wherein the predicted time extension is based on previously logged time changes (See Fig. 6A-B and Col. 8 lines 32-46 Time extension information stored in memory up until the completion of the baseball game is a previously logged time change).
18. Regarding claim 11, Inoue teaches wherein providing time change information comprises displaying the time extension information for the program (See Fig. 6A-B, Fig. 11C Step 11, and Col. 8 lines 32-46).
19. Regarding claim 12, Inoue further teaches providing a user with an opportunity to select a recording start time (See Col. 3 lines 28-33 Recording a program directly is selecting a recording start time).

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20. Regarding claim **13**, Inoue further teaches automatically selecting the recording start time (See Col. 3 lines 28-33 automatically recording a desired program includes automatically selecting the recording start time).

21. Regarding claim **14**, Inoue further teaches providing a user with an opportunity to select to have automatic selection of the recording start time (See Col. 3 lines 28-32).

22. Regarding claim **15**, Inoue further teaches providing a user with an opportunity to select a recording end time (See Col. 3 lines 28-33 Recording a program directly is selecting a recording end time).

23. Regarding claim **16**, Inoue further teaches automatically selecting the recording end time (See Col. 3 lines 28-33 automatically recording a desired program includes automatically selecting the recording end time).

24. Regarding claim **17**, Inoue further teaches providing a user with an opportunity to select to have automatic selection of the recording end time (See Col. 3 lines 28-33).

25. Regarding claim **18**, Inoue further teaches monitoring a data stream that is related to the program (See Fig. 1 and Col. 4 lines 60-67, Col. 5 lines 1-60, Col. 6 lines 45- 67 Col. 7 lines 1-25).

26. Regarding claim **19**, Inoue further teaches providing the data stream to be a program data stream that is distributed for the program (See Fig. 1 and Col. 4 lines 60-67, Col. 5 lines 1-60, Col. 6 lines 45- 67 Col. 7 lines 1-25).

27. Regarding claim **20**, Inoue further teaches providing a cue in the program data stream to indicate when the program is starting (See Col. 6 lines 45-65 "Broadcast starting time of the program" this is a cue).

28. Regarding claim **21**, Inoue further teaches providing a cue in the program data stream to indicate when the program is ending (See Col. 6 lines 45-65 "Broadcast ending time of the program" this is a cue)
29. Regarding claim **22**, Inoue further teaches recording the program with a time delay when a time delay cue is received (See Fig. 11C and Step 11 and Col. 8 lines 32-67 Program is recorded according updated starting time of program).
30. Regarding claim **23**, Inoue further teaches recording the program with a time extension when a time extension cue is received (See Fig. 11C and Step 11 and Col. 8 lines 32-67 Program is recorded according updated ending time of program).
31. Regarding claim **24**, Inoue further teaches displaying an icon in a program listing for that program that indicates that time change information is present (See Fig. 6B Extending Baseball rectangle).
32. Regarding claim **25**, Inoue further teaches displaying an icon in a program listing for that program that indicates that the program is to be recorded (See Col. 7 lines 60-65).
33. Regarding claim **26**, Inoue further teaches trimming a recording time of the scheduled program or an adjacent program to reduce the cut-off in a program recording (See Fig. 6A-B, Col. 8 lines 20-25, 32-67, and Col. 9 lines 1-35 If overlap is detected a decision is made as to which program is to be recorded. Fig. 6A shows the original recording schedule with the shaded regions showing the programs to be recorded. Fig. 6B shows the modified recording schedule where the recording of Jurassic Land is trimmed to reduce the cut-off in the program recording of Baseball).

34. Regarding claim **29**, Inoue teaches a recording system that reduces cut-offs when programs are recorded (See Fig. 1 and Col .1 lines 60-67 Col. 2 lines 1-60), comprising: control circuitry that is configured to receive time change information about a scheduled program (See Fig. 2 Input and output information controller CPU 23a and Col .1 lines 60-67 Col. 2 lines 1-60); and a media recording device that is responsive to the control circuitry and that is configured to record the program to compensate for a time change based on the time change information (See Fig. 1 Second Memory Unit 26 and Col .1 lines 60-67 Col. 2 lines 1-60).

35. Regarding claims **30-54**, claims 30-54 are functions performed by the apparatus of claim 29 related to method claims 2-26, respectively. Therefore, claims **30-54** are analyzed and rejected according to claims 2-26.

Claim Rejections - 35 USC § 103

36. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

37. Claims **27-28** and **55-56** are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al.

38. Regarding claim **27**, Inoue teaches wherein trimming the recording comprises trimming based on a confidence level in user's preferred programming for the scheduled program and the adjacent program (See Fig. 15 Step 42 Col. 17 lines 36-67, Col. 18 1-6 and Col. 19 lines 8-20). Establishing a confidence level based on user preferred

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programming is different than establishing a confidence level based on time change information. However, both methods of establishing a confidence level are similar in that both methods rely on previously logged data. Inoue also teaches various types of information including information about program distribution time can be used to decide which program is trimmed (See Col. 1 lines 22-30, Col. 9 lines 1-36, and Col. 11 lines 20-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inoue's method of determining which program is trimmed based on a confidence level in time change information for the scheduled and the adjacent program in order to provide Inoue's method an alternate way of automatically choosing which program to trim (See Col. 2 lines 16-25).

39. Regarding claim **28**, Inoue teaches wherein trimming comprises trimming a time changed recording time of the scheduled program when time change information for the scheduled program has a lower confidence level than the adjacent program (See Col. 9 lines 1-22 Either program can be trimmed).

40. Regarding claims **55-56**, claims 55-56 are functions performed by the apparatus of claim 29 related to method claims 27-28, respectively. Therefore, claims **55-56** are analyzed and rejected according to claims 2-26.

Conclusion

41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamieson W. Fish whose telephone number is 571-272-7307. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

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42. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

43. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JF 2/22/05



NGOC YEN VU
PRIMARY EXAMINER